

National Center for State Courts (NCSC)

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Rwanda Decentralization of Judicial Administration and Financial Management

**Fourth Quarter FY 2005
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I. Summary

This quarterly progress report reflects program activities from June 1 to September 30, 2005. During this period, the National Center for State Courts (NCSC) focused on four primary activities: assistance amending the 2006 judicial budget; the development of a financial procedure manual; training of core judicial personnel; and a pilot project to ascertain the extent of court-generated revenue. In early September, NCSC requested and received a no-cost extension to continue programming through Oct. 31, 2005. A for-cost extension has been submitted which would allow programming to continue through January 31, 2006.

A factor which impacted program implementation this quarter was the Government of Rwanda (GOR)'s larger decentralization strategy, with which Rwanda's judiciary is complying. The GOR's proposed territorial adjustment program plans to dissolve many of the country's existing provinces and districts, and devolve many of their tasks to sectors and cells. The goal involves shifting more money to districts, away from provinces, to allow districts to coordinate and provide services. Service delivery constitutes a major portion of the decentralization process, and one neglected by the GOR over the past few years. The new territorial adjustment program will prevent money from being diverted at the provincial level and provide for better planning and disbursement of funds at the district and sector levels. According to MINALOC, the territorial administrative changes are scheduled to come into effect on or about January 2006, and result in the following changes: 11 Provinces (plus the city of Kigali) to 4 Provinces (plus the city of Kigali); 106 districts to 30 districts; 1,545 sectors to 480 sectors; around 9,000 cells to about 10,000. Under the new reforms, districts will coordinate services while sectors will deliver them. Provinces, in turn, will carry out economic and development planning.

A major focus for this decentralization effort includes accounting and budgeting functions, formerly administered in a top-down fashion by the Ministry of Justice. Yet the process presents both technical and potential legal hurdles and challenges. The Supreme Court of Rwanda's Budgeting and Finance Department has only three staff in charge of budgeting and accounting for the country's entire Judiciary at all levels. The Provincial courts, assigned to take on the bulk of the tasks of decentralization, have been authorized to hire administrative staff, but no additional staff have yet been recruited, hired or trained. In addition, past and current accounting records are non-existent or very inadequate, preventing the Judiciary from making accurate estimates for either expenditures or revenue in the annual budget.

At the same time, the Supreme Court is seeking to align with the decentralization program yet retain judicial independence, including financial independence. In order to do this, the Supreme Court of Rwanda (SCR) is focusing on more extensive financial management training for clerks and judges at the district level in particular. The SCR also understands that in order to be effective and competent in their new decentralized positions, judges must become more proactive, moving into leadership positions that would not only permit better court management, but encourage community leadership by example.

II. Background

In February 2005, USAID/Rwanda contracted the National Center for State Courts (NCSC) to implement the Administrative and Financial Training for Decentralized Courts in Rwanda Project, a 7-month contract effective from February 22, 2005 through September 30, 2005.

The startup phase of the NCSC project consisted of a diagnostic study from March 11 to April 1, 2005, exploring the current state of judicial financial and administrative management and proposing programmatic responses. The assessment identified areas for potential technical assistance, a targeted training program and how NCSC might best contribute to Rwanda's overall

judicial reform efforts in collaboration with local and international stakeholders. Data for the diagnostic was gathered from a variety of sources both in the capital of Kigali and the provinces of Butare, Gisenyi, Gitarama and Ruhengeri. During the assessment process, the team collected legislation, policies, forms, and statistics, as well as anecdotal information regarding actual practice. While the initial NCSC proposal suggested potential outcomes, as intended the diagnostic analysis was conducted without presupposing any particular programmatic responses. Consistent with this approach, the recommendations contained at the end of the diagnostic suggested a shift in the project activities and new measures to consolidate an autonomous administrative structure within the judiciary, which were not anticipated in the original proposal. These included: assistance with 2006 judicial budget; elaboration of strategic issues and suggestions for the reform of select legal and constitutional provisions; development of judicial budget and expense reporting manual; and training of core personnel and direct technical support to the judiciary for the development of the 2006 budget.

In July 2005, NCSC submitted a revised Statement of Work that reflected an amendment from NCSC's original proposal supporting Rwanda's decentralized courts. The original project proposal placed heavy emphasis on broad-based training in the areas of finance and administration. Based on the results of the diagnostic study, the gaps in the existing structures made broad, extensive training not practical. A full complement of administrative staff was not yet in place, and the pending legislation affecting the civil service was likely to affect the existing core staff.

In addition, while the NCSC project was originally conceived to cover both finance and general administration, the diagnostic and the Supreme Court suggested sharpening the scope of programmatic activities over the remainder of the contract period to target financial issues. This recommendation was not intended to imply that administrative issues are less significant. However, the diagnostic and the Supreme Court leadership identified significant programs, such as those managed by the Belgian Technical Cooperation (BTC) unit and the Canadian-funded *Projet D'appui à l'administration des Cours et Tribunaux (PAACTR)*, as already engaged in this area, while there was no formal programming in the financial area. The Netherlands assisted the judiciary with the preparation of their Medium Term Expenditure Framework (MTEF) budget and was sponsoring the training of judges on new laws. In addition, the project was providing equipment to the courts and in some cases doing some rehabilitation of courts around the country. NCSC and the Supreme Court determined that the only project with the capacity and the mandate to address financial issues was this USAID project.

III. Program Activities

Activity 1: Assistance with the 2006 Judicial Budget

In June 2006, the Supreme Court presented its official 2006 budget of 4,378 billion Rwandan francs to the Ministry of Finance and Economic Planning (MINECOFIN). This was the first time the Supreme Court presented a comprehensive budget which reflected the needs expressed by Rwanda's district, provincial and high courts and met MINECOFIN's submission deadline.

In support of this budget, NCSC worked with the Supreme Court to draft a briefing paper to present to MINECOFIN. The Supreme Court's vice president used this paper to explain the basis for the 2006 budget proposal to the Ministry of Finance and Economic Planning.

In August, the Council of Ministers approved a budget of 2,938 billion Rwandan francs for the Supreme Court. This budget will now be forwarded to Parliament for review. This 2006 budget of 2,938 billion reflects a significant step forward compared to the 2005 budget of 2,475 billion. The

increase of 463 million Rwandan francs reflects an increase from last year's budget of almost 19 percent.

In September, the Supreme Court requested that NCSC provide technical assistance to adjust the budget to reflect the final budget ceiling approved by the Council of Ministers in preparation for a hearing scheduled at the parliament. Once MINECOFIN defends its budget at parliament, the Supreme Court, similar to other ministries, will need to adjust its budget. The Supreme Court has already approached NCSC to request continued support in November to make final adjustments to its budget. The Supreme Court realizes the importance of the NCSC budget process and the Secretary General is already in contact with other donors to see how the Supreme Court could start the information collection process for the 2007-2008 budget process as early as December of 2005

Completion date: May-November 2005
Results: 2006 budget reflects needs expressed by lower courts
Deliverables: Collection of data, draft 2006 Budget of the Judiciary, and Budget Framework Paper
Resources: Meetings, data collection, conference, stakeholder consultations

TIME FRAME	PLANNED ACTIVITY	QUANTITATIVE INDICATORS	BASELINE	TARGET
USAID Rwanda Strategic Objective (SO) 5: Improved Governance through Increased Citizen Participation				
I.R. 5.3.2: Positive interaction among diverse groups of people supported				
April-May 2005 May-June 2005	<ul style="list-style-type: none"> Meetings organized with representatives of Provincial and High Courts to solicit their input into 2006 judiciary budget. Supreme Court, with NCSC's assistance, drafts Budget Framework Paper and 2006 budget based on the information from lower courts and NCSC's diagnostic study. 	<ul style="list-style-type: none"> 80 % Percent of Provincial Courts participate in the elaboration of the 2006 budget. 90% Percent of High Courts participate in the elaboration of the 2006 budget. Budget Framework Paper submitted and accepted by MINECOFIN 	<ul style="list-style-type: none"> 2005 and past budgets for the judiciary. No decentralized input in formulation—input limited to after the fact comment 	<ul style="list-style-type: none"> 100% percent of Provincial and High Courts participated in the elaboration of the 2006 budget Supreme Court's budget increased by 19 percent. 2006 budget reflects needs expressed by District, Provincial and High courts. 2006 budget is developed based on a participatory approach. Budget

TIME FRAME	PLANNED ACTIVITY	QUANTITATIVE INDICATORS	BASELINE	TARGET
				Framework Paper submitted in time to meet MINECOFIN's deadline and reflects needs and input as well.

Activity 2: Development of a Financial Procedure Manual

In July, under the leadership of the Supreme Court and with the direct support of the Director of Finance, NCSC began developing a draft financial procedure manual in coordination with the Ministry of Finance and the Office of the General Auditor. This manual was designed for use by the court administrators identified by the Supreme Court for recruitment. In July and early August, several meetings were organized with the Supreme Court's Directorate of Finance and Budget, the Office of the General Auditor, consultants from the Ministry of Finance, MINALOC and NCSC to review the draft manual and ensure its conformity with the Ministry of Finance's and Supreme Court's overall vision, procedures and policies.

NCSC amended the draft financial procedure manual based on the feedback provided and, in partnership with the Supreme Court, began testing the draft manual in a select number of jurisdictions over a one-month period. In September NCSC officially presented a final version of the procedure manual to senior officials of Rwanda's Supreme Court that included the recommendations of the President of the Supreme Court, MINALOC, the Office of the Auditor General, and local experts. NCSC received in late October the Supreme Court's validation letter of the Financial Procedure manual. This manual will be introduced in all courts of Rwanda.

Completion Date: August-October 2005
Results: Basic policies for judicial financial administration reflected in draft financial procedure manual
Deliverable: Financial Procedure Manual
Resources: Workshops, MINALOC manual, Stakeholder consultations

TIME FRAME	PLANNED ACTIVITY	INDICATORS	BASELINE	TARGET
USAID Rwanda Strategic Objective (SO) 5: Improved Governance through Increased Citizen Participation				
I.R. 5.3.1: Improved efficiency and effectiveness of selected aspects of justice delivery				
July 2005 July-October 2005	<ul style="list-style-type: none"> Draft financial procedure manual incorporates above policies, using MINALOC's Manual as a reference. Workshops organized to 	<ul style="list-style-type: none"> Draft financial procedure manual completed (qualitative). Percentage of court administrators who receive 	<ul style="list-style-type: none"> No Judicial Financial Procedures Manual exists. Limited financial authority is exercised within the lower 	<ul style="list-style-type: none"> Basic policies for judicial financial administration reflected in draft financial procedure manual. Supreme Court

TIME FRAME	PLANNED ACTIVITY	INDICATORS	BASELINE	TARGET
	review and revise the financial manual to ensure its consistency with the Ministry of Finance's and Supreme Court's procedures and policies.	the manual who share it as a helpful reference tool (quantitative).	courts. <ul style="list-style-type: none"> Expense reporting is a novel activity. 	approves the new financial procedural manual. <ul style="list-style-type: none"> Current clerks and new court administrators use financial procedure manual as guide in monthly financial reporting. Procedure Manual translated from French into English.

Activity 3: Training of Core Personnel

In August and September, NCSC, in consultation with the Supreme Court, designed and conducted the first tier of a “cascade-style” training process under which NCSC trained a diverse group of 40 professionals working within the Supreme Court’s Human Resources Department, Budget and Finance Department, General Inspection Department and Logistics Department as well as the Supreme Court’s training coordinator, clerks and representatives from its Internal Audit division. After an initial training in Kigali, NCSC designed and conducted six regional trainings. The regional trainings—conducted in the local language Kinyarwanda—targeted clerks of the Districts and Provincial Courts of Cyangugu, Gikongoro, Gisenyi, Ruhengeri, Butare, Gitarama, Nyanza, Kibuye, Umutar, Rwangana and Kibungo and focused primarily on the new financial procedure manual, Rwanda’s budget process and the financial decentralization of the courts. In total, 80 clerks were trained as part of this first tier of a “cascade-style” training process.

NCSC evaluated the impact of its trainings by having the clerks complete evaluation forms. Some of the comments and suggestions included were: requests for additional training on financial procedures; requests for additional written guidance from the Supreme Court; constraints due to the lack of adequate staffing at the courts; and requests that copies of the financial procedure be available to all clerks.

Following the regional trainings, NCSC presented a report on the trainings to the Supreme Court and USAID. After incorporating feedback from the individuals trained, NCSC recently shared the final version of financial procedure manual with the Supreme Court. Initial approval has been extended by the President and the Vice President of the Supreme Court and final approval is anticipated by the end of October 2005. Soon after the manual is approved, NCSC plans to develop a user-friendly version of the manual that would be distributed to a select number of courts.

Completion Dates: September-November 2005

Results: Sustainable training program developed for new judicial personnel

Deliverables: Core group of judicial staff trained as trainers on new judicial financial management policies
Resources: Reports from assessments, activities and trainings

TIME FRAME	PLANNED ACTIVITY	INDICATORS	BASELINE	TARGET
USAID Rwanda Strategic Objective (SO) 5: Improved Governance through Increased Citizen Participation				
I.R. 5.3.1: Improved efficiency and effectiveness of selected aspects of justice delivery				
August-September 2005	<ul style="list-style-type: none"> Core judicial staff trained as trainers on judicial financial management policies. 	<ul style="list-style-type: none"> Percentage of core judicial staff able to train new personnel on new judicial financial management policies. Training curricula established. 	<ul style="list-style-type: none"> No training program currently exists on judicial financial management policies. 	<ul style="list-style-type: none"> Training materials developed. 40 midlevel core judicial staff (100%) able to train new judicial personnel. 70 clerks at the provincial courts were trained on basic financial procedures, budget process and decentralization Sustainable training program developed for new judicial personnel

Activity 4: Pilot Project to Ascertain the Extent of Court-Generated Revenue

Following the Supreme Court's presentation of its first on-time 2006 judicial budget to the Ministry of Finance, the Rwandan Parliament requested that the Supreme Court provide information on the extent to which courts contribute to, and not simply expend, on national revenue. Because the courts simply accept receipts for fees paid to officers under control of the Rwanda Revenue Authority, they do not monitor fees for their own services and currently cannot respond to this request.

In response to this request, NCSC, in partnership with the Supreme Court, conducted a survey in the country's largest jurisdictions where caseload volume is considered high and where districts routinely report settled cases. These included the city of Kigali, and the provinces of Butare and Ruhengeri. The survey included both courts of general jurisdiction and commercial courts and sought to provide information on revenues by district in order to estimate how much revenue the judiciary—apart from general revenue—collects on its own. Approximately 10-15 surveyors contracted by NCSC were dispatched to collect revenues from each jurisdiction – 3 commercial

chambers, 3 provincial courts and 29 lower-level district courts (approximately 8 justice of the peace courts in Kigali, 11 in Ruhengeri and 10 in Butare).

The data will be analyzed and a report submitted to the Supreme Court in October 2005. Data collected shows that 34, 836,994 FRW estimated at \$63,000 has been collected from 35 courts out of 118 courts during January through September 2005. However, this large amount of fees collected is at the bank and neither the judiciary nor the public treasurer has made a decision on how to use these fees. In addition, information collected from Kigali provincial court shows that 92,819,616 FRW estimated at \$167,243 was deposited at the Rwanda Revenues Authority from the same period. This information will help the Supreme Court, and the judiciary more broadly, to increase its bargaining power with the Ministry of Finance to cover costs of needed operations in future budgets, and in turn help the Court to better monitor its own monthly and quarterly budgeting and spending targets by both province and region. In such a fashion, the Supreme Court will be able to produce definitive information to the Ministry of Finance and other GOR departments as to its contributions to, and not simply expenditures from, the national budget. The report will then be presented at a subsequent international conference currently planned for mid-November 2005. The presentation of this survey data at the conference will promote the Supreme Court – and the judiciary as a whole – as a reputable, competent and professionally equal partner with the other branches of the Rwandan state.

Activity 5: Elaboration and reform of select legal provisions

The general principles of judicial independence, including budgetary and financial independence have been adequately provided for in the Constitution and implementing legislation, but the issue of the decentralization of the judiciary is not specifically addressed in the Constitution. Article 167 of the Constitution does establish the principle of decentralization generally, and it could be construed to encompass the judiciary. Support for this interpretation can be found in various provisions of legislation that provide for decentralization of judicial operations. Nevertheless, further normative implementation would be useful to provide explicit guidance on how to apply the principle of decentralization to the special judicial context. Some of this guidance could originate with the development of court policies. However, potential amendments to existing legal framework should also be considered.

Assistance with amendments to the existing legal framework could focus on certain legal provisions that appear inconsistent either *prima facie* or conceptually with a decentralized judicial management structure. One provision is in Article 167 of the Constitution itself, and several are in the law on state finances. Each could potentially hinder the development of a decentralized judicial management structure.

As noted in NCSC's diagnostic analysis, Article 167 of the Constitution requires all local organs of the public service to come under the authority of MINALOC. While this is generally consistent with the overall decentralization scheme, it overlooks the judicial administrative and financial autonomy which is otherwise provided for in the Constitution. All indications are that this wording is a mere oversight, but it may nevertheless require amendment of the Constitution. Fortunately, the amendment process may not be as problematic politically as one might initially assume. The only amendment of the Constitution that has occurred to date involved the recognition of the managerial authority of the President of the Supreme Court and the Prosecutor General. This recognition is directly supportive of financial autonomy for the judiciary. Thus, in light of this constitutional history, it would be reasonable to suggest a further amendment of the Constitution to realize judicial implementation of the decentralization policy.

Completion Date:	June-August 2005
Results:	Clarification of legal issues and policies relevant to judicial financial administration
Deliverable:	Legal memorandum and judicial financial policy
Resources:	Legal expertise and intrajudicial consultations

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monthly USAID/DG partners meeting. This meeting was an opportunity to obtain updated information on other USAID partner programs.

Constraints/ Opportunities/Observations

Constraints

The Government of Rwanda's territorial adjustment program began as NCSC was in the midst of working with the Supreme Court to finalize the 2006 – 2007 budget. This unanticipated action resulted in the Supreme Court approaching NCSC to request continuous assistance in adjusting its budget.

To date the Government of Rwanda has not nominated the '*Gestionnaire de Credit*' or Court Administrators". Consequently the training have targeted clerks of the provincial courts. The impact of training the designated court administrators would be greater than having to train clerks the clerks.

In addition, in order to accommodate the Supreme Court's schedule, NCSC shifted implementation of its activities originally planned for September and October to later in the year. Due to the Supreme Court's schedule, the survey to ascertain the extent of court-generated revenue was conducted earlier than originally planned in September. Other activities will now be planned in October and November as NCSC was informed by the Supreme Court, that the judiciary will be on leave during the whole month of December.

Opportunities

The Supreme Court has engaged a new Secretary General Madame Anne Gahongayire. Mme. Gahongayire has been very appreciative of NCSC's activities over the past seven months and is providing key support for the project.

USAID has decided to extend additional funding for this project. This additional funding will allow the: continuation of the Supreme Court's Financial Training; the organization of a National Conference on Judicial Independence; and the conduct of a Community Leadership Training Forum for Judges.

The Ministry of Finance has substantively increased the Supreme Court's budget. This increase will allow the Supreme Court to implement some of the NCSC's recommendations.

Observations

USAID is in the process of approving a for-cost extension that would allow NCSC to implement activities scheduled from November 2005 – January 2006. However, by mid-October, NCSC had not yet received the necessary funds to begin preparations to implement the proposed activities. This late disbursement will impact project implementation and the timeline for project activities. NCSC will work out on a new calendar with its local partners at the Supreme Court to identify when additional training for the clerks and judges could be conducted during the month of November 2005. This timeframe will have to take into account other partners training activities.

Activities Planned Next Quarter

- Continuation of training on financial procedure manual
- Design and conduct of international conference
- Support to Supreme Court in adjusting its final 2006 budget